THE HON'BLE SRI JUSTICE BILAL NAZKI
AND
THE HON'BLE SRI JUSTICE NOOTY RAMAMOHANA RAO

WRIT PETITION Nos.8962 of 1989, 6866 & 6952 of 1990 and 521 of 1993

Date: 05-02-2007.

Between :

The Divisional Manager, APSRTC, Warangal & others.

.....Petitioners.

And

Government of A.P., rep. by its Secretary, Revenue Department & others.

.....Respondents.

THE HON'BLE SRI JUSTICE BILAL NAZKI
AND
THE HON'BLE SRI JUSTICE NOOTY RAMAMOHANA RAO

WRIT PETITION Nos.8962 of 1989, 6866 & 6952 of 1990 and 521 of 1993

COMMON ORDER : (Per Hon'ble Sri Justice Bilal Nazki)

Demand notices issued on different dates by Mandal Revenue Inspectors became the subject matter of these writ petitions. We will be taking writ petition No.6952 of 1990 into consideration for the facts.

The contention of the petitioners was that Andhra Pradesh State Road Transport Corporation (for short 'APSRTC') was a charitable institution and as such the land held by it could not be taxed under A.P.Non-Agricultural Lands Assessment Act, 1963 (for short 'the NALA Act'). They relied on Section 12 (d) of the NALA Act which exempts the land owned by any educational, charitable or religious institution from payment of tax. The petitioners contended that APSRTC was a

charitable institution and the Supreme Court in **Commissioner of Income Tax, Andhra Pradesh, Hyderabad v. Andhra Pradesh State Road Transport Corporation, Hyderabad**[1], held that APSRTC was a charitable institution. Relying on this judgment, this Court allowed the writ petitions and quashed the demands. Aggrieved by the order, the State went into appeal to the Supreme Court and according to the judgment of Supreme Court, while deciding the controversy between the parties on the basis of the judgment in **Commissioner of Income Tax** case (supra), the High Court had held that the activities carried on by APSRTC were for charitable purpose and therefore exempted from payment of tax under the NALA Act. As the Supreme Court had, in this case, examined the question as to whether APSRTC was a charitable institution as far as income tax was concerned, therefore, the Supreme Court set aside the orders passed by this Court and remanded the matters back.

We have heard the learned counsel for petitioners. Nobody appears for respondents.

There is no definition given to 'Charitable Institution' in the NALA Act and in order to come to a conclusion whether particular institution was a charitable institution or not, many facts would have to be taken into consideration and it is not possible for this Court in these proceedings on the basis of material placed before it, to come to a conclusion whether APSRTC was a charitable institution for the purposes of NALA Act. Section 5 of the NALA Act provides for appeal and Section 6 provides for revision. Demands have been raised and these demands can be challenged by way of an appeal and in an appellate forum, the parties can also adduce evidence so that the appellate authority has some material before it to come to a conclusion as to whether the institution was a charitable institution or not.

For these reasons, we dispose of the writ petitions giving liberty to the petitioners to file appeals against the orders of assessments. Since the matters remained present in this Court and then had gone to Supreme Court and then come back to this Court, therefore, if the appeals are filed within a period of six weeks from today, the plea of limitation may not be raised by the other side.

_____

BILAL NAZKI, J

5th February 2007.

_____

NOOTY

RAMAMOHANA RAO, J

ajr

---

[1] 1986 (2) SCC 391